

110TH CONGRESS
2D SESSION

H. R. 7195

To entitle affected participants under a pension plan referred to in the
USEC Privatization Act to payment for benefit increases not received.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2008

Mr. WHITFIELD of Kentucky introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To entitle affected participants under a pension plan referred to in the USEC Privatization Act to payment for benefit increases not received.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ENTITLEMENT AND DETERMINATION OF BENE-**
4 **FITS FOR AFFECTED PARTICIPANTS.**

5 (a) ENTITLEMENT OF AFFECTED PARTICIPANTS.—

6 Any affected participant described in subsection (b) is en-
7 titled to a one-time lump sum payment to be determined

1 by the Secretary of Energy (hereinafter referred to as the
2 “Secretary”) under subsection (c).

3 (b) AFFECTED PARTICIPANT.—For the purposes of
4 this Act, an affected participant is a person described
5 under section 3110(a)(6)(B) of the USEC Privatization
6 Act (42 U.S.C. 2297h–8(a)(6)(B)).

7 (c) DETERMINATION OF PAYMENT FOR AFFECTED
8 PARTICIPANTS.—The Secretary shall pay an affected par-
9 ticipant, pursuant to an application timely filed by such
10 participant, a one-time lump sum payment equal to an
11 amount which bears the same ratio to \$48,700,000 as the
12 actuarial present value of the accrued benefits of the af-
13 fected participant under the pension plan from which a
14 transfer of plan assets and liabilities required under sec-
15 tion 3110(a)(2) of the USEC Privatization Act was made
16 (as of immediately before the transfer) bears to the actu-
17 arial present value of the accrued benefits of all affected
18 participants under the pension plan from which the trans-
19 fer under such section was made (as of immediately before
20 the transfer).

21 (d) DETERMINATION OF FINDINGS OF FACT.—The
22 Secretary is directed to make findings of facts and deci-
23 sions as to the rights of any affected participant applying
24 for a payment under this Act.

1 (e) RULEMAKING.—Not later than 60 days after the
2 date of the enactment of this Act, the Secretary shall issue
3 regulations to carry out this Act.

4 (f) PUBLIC NOTICE.—To the extent practicable, the
5 Secretary shall provide notice to individuals who may be
6 eligible to receive a payment under this Act.

7 (g) APPLICATION FOR PAYMENT.—To be eligible for
8 a payment under this Act, an affected participant shall
9 prepare and submit to the Secretary an application—

10 (1) not later than 240 days after the date of
11 the enactment of this Act;

12 (2) in such manner; and

13 (3) containing such information as the Sec-
14 retary requires.

15 (h) TIMELY PAYMENTS.—To the extent practicable,
16 the Secretary shall determine and make a payment to an
17 affected participant not later than 180 days after such
18 participant's submission of an application for payment
19 under subsection (g).

20 (i) ELECTION TO TREAT PAYMENT AS ROLLOVER
21 CONTRIBUTION TO IRA.—

22 (1) IN GENERAL.—Any affected participant who
23 receives a payment under this section may, at any
24 time during the 1-year period beginning on the day
25 after the date on which such payment was received,

1 make one or more contributions in an aggregate
 2 amount not to exceed the amount of such payment
 3 to an individual retirement plan (as defined by sec-
 4 tion 7701(a)(37) of the Internal Revenue Code of
 5 1986).

6 (2) TREATMENT OF CONTRIBUTIONS TO
 7 IRAS.—For purposes of the Internal Revenue Code
 8 of 1986, if a contribution is made an individual re-
 9 tirement plan pursuant to paragraph (1), then—

10 (A) except as provided in paragraph (3),
 11 such contribution shall not be included in gross
 12 income, and

13 (B) to the extent of the amount of such
 14 contribution, such contribution shall be treat-
 15 ed—

16 (i) as a distribution described in sec-
 17 tion 408(d)(3) of such Code, and

18 (ii) as having been transferred to the
 19 individual retirement account in a direct
 20 trustee to trustee transfer within 60 days
 21 of the distribution.

22 (3) SPECIAL RULE FOR ROTH IRAS.—If a con-
 23 tribution is made under paragraph (1) to a Roth
 24 IRA, such contribution shall be includible in gross
 25 income and, unless the taxpayer elects not to have

1 this clause apply, such contribution shall be so in-
2 cluded ratably over the 2-taxable-year period begin-
3 ning with the first taxable year in which such con-
4 tribution is made.

5 (j) ADMINISTRATIVE EXPENSES.—There is author-
6 ized to be appropriated to the Secretary \$1,300,000 to
7 carry out this Act.

8 **SEC. 2. HEARING AND JUDICIAL REVIEW.**

9 (a) HEARING.—

10 (1) IN GENERAL.—Upon request by any af-
11 fected participant applying for a payment under this
12 Act, who makes a showing in writing that such par-
13 ticipant's rights may have been prejudiced by any
14 decision the Secretary has rendered, the Secretary
15 shall give such participant reasonable notice and op-
16 portunity for a hearing with respect to such decision,
17 and, if a hearing is held, shall, on the basis of evi-
18 dence adduced at the hearing, affirm, modify, or re-
19 verse the Secretary's findings of fact and such deci-
20 sion.

21 (2) REQUEST FOR HEARING.—Any request for
22 a hearing under this subsection must be filed within
23 60 days after notice of a decision by the Secretary
24 is received by the affected participant making such
25 a request.

1 (3) SECRETARY.—The Secretary is further au-
2 thorized, on the Secretary's own motion, to hold
3 such hearings and to conduct such investigations
4 and other proceedings as the Secretary may deem
5 necessary or proper for the administration of this
6 Act.

7 (b) JUDICIAL REVIEW.—

8 (1) IN GENERAL.—Any affected participant,
9 after any final decision of the Secretary made after
10 a hearing to which such participant was a party, ir-
11 respective of the amount in controversy, may obtain
12 a review of such decision by a civil action com-
13 menced within 60 days after the mailing to such
14 participant of notice of such decision or within such
15 further time as the Secretary may allow.

16 (2) JURISDICTION AND VENUE.—An action
17 under this section shall be brought in the district
18 court of the United States for the judicial district in
19 which the affected participant plaintiff resides, or
20 where such plaintiff has a principal place of busi-
21 ness, or, if such plaintiff does not reside or have a
22 principal place of business within any such judicial
23 district, in the United States District Court for the
24 District of Columbia.

1 (3) JUDICIAL DETERMINATION.—The court
2 shall have power to enter, upon the pleadings and
3 transcript of the record, a judgment affirming, modi-
4 fying, or reversing the decision of the Secretary,
5 with or without remanding the cause for a rehear-
6 ing.

7 (4) FINAL JUDGMENT.—The judgment of the
8 court shall be final, except that it shall be subject
9 to review in the same manner as a judgment in
10 other civil actions.

11 (5) CHANGE IN SECRETARY.—Any action insti-
12 tuted in accordance with this section shall survive
13 notwithstanding any change in the person occupying
14 the office of Secretary or any vacancy in such office.

15 **SEC. 3. CERTIFICATION FOR PAYMENT.**

16 (a) IN GENERAL.—Upon final decision of the Sec-
17 retary, or upon final judgment of any court of competent
18 jurisdiction, that any affected participant is entitled to any
19 payment under this Act, the Secretary shall certify to the
20 Secretary of the Treasury the name and address of the
21 person entitled to receive such payment, the amount of
22 such payment, and the time at which such payment should
23 be made, and the Secretary of the Treasury shall make
24 payment in accordance with the certification of the Sec-
25 retary.

1 (b) PAYMENT WHILE DECISION IS UNDER RE-
2 VIEW.—Where a review of the Secretary’s decision is or
3 may be sought under section 2, the Secretary may with-
4 hold certification of payment pending such review.

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